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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

SIERRA CLUB and SOUTHERN BORDER  
COMMUNITIES COALITION,

*Plaintiffs,*

v.

DONALD J. TRUMP, President of the United  
States, in his official capacity, *et al.*,

*Defendants.*

Case No. 4:19-cv-00892-HSG

P.I. Hearing Date: May 17, 2019  
Time: 10:00 AM

**MOTION OF THE U.S. HOUSE  
OF REPRESENTATIVES FOR  
LEAVE TO PRESENT  
ARGUMENT IN THE  
PRELIMINARY INJUNCTION  
HEARING**

The United States House of Representatives respectfully requests leave to present argument during the hearing on plaintiffs' motion for a preliminary injunction, which is currently scheduled for May 17, 2019 at 10:00 a.m. ECF No. 39. This Court granted the House's motion for leave to file a brief as *amicus curiae* expressing the views of the House in support of plaintiffs' motion for a preliminary injunction. ECF No. 46. As discussed below and in our *amicus* brief, ECF No. 47, the House has a compelling institutional interest in the Court's grant of expedited relief to prohibit the Executive Branch defendants from spending federal funds without a valid Congressional appropriation. Because the expenditures challenged here usurp the House's Article I legislative authority, the House has a distinct interest in this case and respectfully

1 submits that its presentation of argument will aid the Court in its determination of the issues.  
2 Counsel for plaintiffs Sierra Club and Southern Border Communities Coalition consent to this  
3 motion. Counsel for defendants Donald J. Trump, Patrick M. Shanahan, Kirstjen M. Nielsen, and  
4 Steven T. Mnuchin, in their official capacities, take no position on this motion.

5 This suit arises out of the Executive Branch defendants' expenditure of federal funds to  
6 construct a wall along the southern border of the United States in violation of the Appropriations  
7 Clause of the U.S. Constitution and the constitutional separation-of-powers principle. The  
8 Appropriations Clause provides that "[n]o Money shall be drawn from the Treasury, but in  
9 Consequence of Appropriations made by Law." U.S. Const. art. I, § 9, cl. 7. This Clause vests  
10 Congress with "exclusive power over the federal purse," and it is "one of the most important  
11 authorities allocated to Congress in the Constitution's 'necessary partition of power among the  
12 several departments.'" *U.S. Dep't of the Navy v. FLRA*, 665 F.3d 1339, 1346 (D.C. Cir. 2012)  
13 (quoting *The Federalist No. 51* (James Madison)).

14 As explained in our *amicus* brief, although Congress appropriated only \$1.375 billion for  
15 the construction of barriers along the southern border, the President announced that his  
16 Administration would spend up to \$8.1 billion. *See* ECF No. 47 at 7. The Administration claims  
17 that it has statutory authority to expend those funds, including pursuant to 10 U.S.C. § 284 and 10  
18 U.S.C. § 2808. *Id.* at 1-2. Those arguments are incorrect, as plaintiffs and the House have  
19 argued: the cited statutory provisions provide no authority for the expenditures on a border wall.  
20 Absent a valid Congressional appropriation, the defendants are violating the Appropriations  
21 Clause.

22 To protect its constitutional interests, the House has filed its own suit in the U.S. District  
23 Court for the District of Columbia challenging the Administration's expenditure of federal funds  
24 under Sections 284 and 2808 to construct a border wall. *See U.S. House of Representatives v.*  
25 *Mnuchin*, No. 19-cv-969 (D.D.C. Apr. 5, 2019). The House has also sought a preliminary  
26 injunction there and the district court has scheduled a hearing for May 24, 2019. To protect its  
27 same constitutional interests, the House filed an *amicus* brief in this suit urging the Court to grant  
28 the preliminary injunction.

As noted at the outset, because the actions by the Executive Branch defendants here go to the very heart of an essential power of Congress, put in place by the Framers to protect the people of the United States from unchecked actions by the Federal Government, the House has a unique interest in this matter. Accordingly, the House respectfully requests leave to present argument during the hearing on the preliminary injunction.

### CONCLUSION

For the foregoing reasons, the Court should grant the House's motion for leave to present argument in the preliminary injunction hearing scheduled for May 17, 2019.

Respectfully submitted,

/s/ Douglas N. Letter

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\* Attorneys for the Office of General Counsel for the U.S. House of Representatives are "entitled, for the purpose of performing the counsel's functions, to enter an appearance in any proceeding before any court of the United States or of any State or political subdivision thereof without compliance with any requirements for admission to practice before such court." 2 U.S.C. § 5571.

**CERTIFICATE OF SERVICE**

I hereby certify that on May 2, 2019, I caused the foregoing document to be filed via the U.S. District Court for the Northern District of California's CM/ECF system, which I understand caused service on all registered parties.

/s/ Douglas N. Letter  
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